REMARKS

Claims 1, 13, 19, 23, 27, 33, and 46 are amended, no claims are canceled, and no claims are added; as a result, claims 1-61 are now pending in this application.

No new matter has been added through the proposed amendments to claims 1, 13, 19, 23, 27, 33, and 46. Support for these proposed amendments may be found throughout the specification, for example but not limited to the speciation at page 5, line 25 through page 6, line 14 and FIG. 6, as originally filed.

Amendments proposed to claims 1, 13, 19, 23, 27, 33, and 46 are admissible because 37 C.F.R. § 1.116(b)(2) states,

> (b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title):
>
> (2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted;

Applicants respectfully submit that these proposed amendments to claims 1, 13, 19, 23, 27, 33, and 46 present these claims in a better form for consideration on appeal, and thus may be admitted.

Applicants respectfully request that these proposed amendments to claims 1, 13, 19, 23, 27, 33, and 46 be entered. In addition, Applicants respectfully request that the proposed amendments be considered in view of granting an allowance of all claims now pending in the application.

§103 Rejection of the Claims

Claims 1, 3, 5, 7, 8-10, 12-16, 18-24, 27-31, 33, 36, 39-50, 52, 53, 55, and 56.

Claims 1, 3, 5, 7, 8-10, 12-16, 18-24, 27-31, 33, 36, 39-50, 52, 53, 55, and 56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Collins et al. in view of Sakakibara et al. (U.S. 4,681,712). Applicants respectfully traverse the rejection of claims 1, 3, 5, 7, 8-10, 12-16, 18-24, 27-31, 33, 36, 39-50, 52, 53, 55, and 56.

The Final Office Action fails to provide a proper basis for forming the proposed combination of Collins et al. and Sakakibara et al, and thus fails to meet the burden for establishing a prima facie case of obviousness with respect to claims 1, 3, 5, 7, 8-10, 12-16, 18-24, 27-31, 33, 36, 39-50, 52, 53, 55, and 56.

The Final Office Action fails to provide proper evidence to support a suggestion or motivation to combine[1] Collins et al. with Sakakibara et al, and also fails to show how these documents, or any other evidence of record, suggests the desirability[2] of the proposed combination of Collins et al. and Sakakibara et al. In an attempt to meet these requirements, the Final Office Action on page 3 states,

> It would have been obvious one of ordinary skill in the art at the time of the invention was made to incorporate the teachings of Sakakibara et al. with the product of Collins et al. for the purpose of proving a function to absorb electromagnetic waves.

However, such a bare assertion, without evidence to support a suggestion or motive to combine Collins et al. and Sakakibara et al., and without evidence suggesting the desirability of the proposed combination of Collins et al. and Sakakibara et al., fails to meet the burden for establishing a *prima facie* case of obviousness with respect to the rejection of claims 1, 3, 5, 7, 8-10, 12-16, 18-24, 27-31, 33, 36, 39-50, 52, 53, 55, and 56. Without such evidence, the Final Office Action is merely reconstructing the claimed subject matter using impermissible hindsight.[3]

For at least these reasons, the Final Office Action fails to provide a proper basis for forming the proposed combination of Collins et al. and Sakakibara et al., and thus fails to meet the burden for establishing a *prima facie* case of obviousness with respect to claims 1, 3, 5, 7, 8-10, 12-16, 18-24, 27-31, 33, 36, 39-50, 52, 53, 55, and 56.

Claims 1, 3, 5, 7, 8-10, 12-16, 18-24, 27-31, 33, 36, 39-50, 52, 53, 55, and 56 are not obvious in view of the proposed combination of Collins et al. and Sakakibara et al. because the proposed combination fails to teach or suggest all of the subject matter included in claims 1, 3, 5, 7, 8-10, 12-16, 18-24, 27-31, 33, 36, 39-50, 52, 53, 55, and 56.

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[1] The Office Action must provide specific, objective evidence of record for a finding of a suggestion or motivation to combine reference teachings and must explain the reasoning by which the evidence is deemed to support such a finding. *In re Sang Su Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

[2] The fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990); MPEP § 2143.01.

[3] The Examiner must avoid hindsight. *In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990).

Claims 1, 3, 5, 7, 8-10, 12-16, 18-24, 27-31, 33, 36, 39-50, 52, 53, 55, and 56 each include subject matter not taught or suggested by the proposed combination of Collins et al. and Sakakibara et al., and so these claims are not obvious, and are patentable, over the proposed combination of Collins et al. and Sakakibara et al. For example, independent claim 1 as now amended recites,

> a waveguide body including an array of waveguide cells each having a contiguous inner surface; and
>
> **an absorber layer covering at least a portion of each contiguous inner surface, wherein the absorber layer covers no more than the contiguous inner surface of each of the waveguide cells**, the absorber layer including an epoxy resin with particles having a high magnetic loss tangent covering at least a portion of each contiguous inner surface and capable of absorbing electromagnetic radiation over a select frequency range. (Emphasis added).

In contrast, Collins et al. states,[4]

> A copper layer is plated on at least a surface of the non-conductive plate interior to the enclosure and on the walls of the tunnel openings. A nickel layer is plated on the copper layer.

Collins et al. further states,[5]

> Shield plate 14, rails 17, finger 19 and 20 are preferably a molded plastic, single piece. **The entire molded piece 24 is plated with a conductive material.** Preferably, piece 24 is plated with copper and then a layer of nickel over the copper. The entirety of piece 24, including the shield, the interior of the holes, the rails 17, the fingers 19 and 20, the protuberances 21 are all plated with nickel over copper. (Emphasis added).

Thus, Collins et al. concerns an entire molded piece being plated with multiple layers of conductive material. Since Collins et al. states that the entire molded piece 24, including a shield plate 14, rails, 17, and finger 19 and 20, are all plated with copper and then a layer of nickel over the copper, Collins et al. does not teach or suggest, "an absorber layer covering at least a portion of each contiguous inner surface, wherein the absorber layer covers **no more than the contiguous inner surface of each of the waveguide cells**," as included in independent claim 1.

[4] *See* Collins et at. at column 2, line 66 through column 3, line 2.
[5] *See* Collins et al. at column 4, lines 11-17.

(Emphasis added). Further, since Collins et al. states that "a nickel layer is plated on the copper layer," Collins does not teach or suggest "the absorber layer including an epoxy resin with particles having a high magnetic loss tangent covering at least a portion of each contiguous inner surface and capable of absorbing electromagnetic radiation over a select frequency range," as recited in independent claim 1. For at least these reasons, Collins et al. fails to teach or suggest all of the subject matter included in independent claim 1.

The Final Office Action fails to point out in, and Applicants' representatives fail to find in the additional document of Sakakibara et al., a teaching or suggestion of the subject matter included in claim 1 and missing from Collins et al. Therefore, the proposed combination of Collins et al. and Sakakibara et al. fails to teach or suggest all of the claimed subject matter included in claim 1.

In further examples of claims including subject matter not taught or suggested by the proposed combination of Collins et al. and Sakakibara et al.:

Independent claim 13 as now amended recites,

> an array of waveguide cells each having a contiguous inner surface;
>
> an absorber layer covering at least a portion of each contiguous inner surface, wherein the absorber layer covers no more than the contiguous inner surface of each of the waveguide cells, the absorber layer including an epoxy resin with particles having a high magnetic loss tangent covering at least a portion of each contiguous inner surface, the absorber layer capable of absorbing electromagnetic radiation over a select frequency range.

Independent claim 19 as now amended recites,

> a metal chassis having an aperture, the chassis adapted to enclose portions of the computer that generates heat and EMI over a select frequency range; and
>
> an EMI waveguide shield fixed to the chassis and covering the aperture, the EMI waveguide shield including an array of waveguide cells each having a contiguous inner surface, and an absorber layer covering at least a portion of each contiguous inner surface, wherein the absorber layer covers no more than the contiguous inner surface of each of the waveguide cells, the absorber layer including an epoxy resin with particles having a high magnetic loss tangent covering at least a portion of each contiguous inner surface, the absorber layer capable of absorbing the EMI.

Independent claim 23 as now amended recites,

> introducing the EMI and heat to an array of waveguide cells fixed to the chassis, each waveguide cell having an aperture leading from the interior and a contiguous inner surface at least partially coated with an absorber layer, wherein the absorber layer covers no more than the contiguous inner surface of each of the waveguide cells, the absorber layer including an epoxy resin with particles having a high magnetic loss tangent that absorbs the EMI over the select frequency range.

Independent claim 27 as now amended recites,

> an insulating substrate having a plurality of apertures;
> absorbing waveguide means including an absorber layer, the absorber layer including an epoxy layer covering at least a portion of an inner surface of each of the plurality of apertures and the absorber layer covering no more than the inner surface of each of the plurality of apertures, the substrate for absorbing electromagnetic radiation over a select frequency range.

Independent claim 46 as now amended recites,

> a computer enclosure, the computer enclosure including a vent having a plurality of apertures and a shape that provide ventilation from an interior of the enclosure to outside while reducing EMI emissions through the vent, wherein the vent includes a layer including an EMI-absorbent material including an epoxy resin with particles having a high magnetic loss tangent capable of absorbing electromagnetic radiation over a select frequency range, wherein the EMI-absorbent material covers no more than an inner surface of each of the plurality of apertures.

For reasons analogous to those stated above with respect to claim 1, the proposed combination of Collins et al. and Sakakibara et al. fails to teach or suggest all of the claimed subject matter included in independent claims 13, 19, 23, 27, and 46. Thus, each of independent claims 13, 19, 23, 27, and 46 is not obvious, and is patentable, over the proposed combination of Collins et al. and Sakakibara et al.

Claims 3, 5, 7-10, 12, and 45 depend from claim 1, and so include all of the subject matter included in claim 1, and more. Claims 14-16, 18, and 20 depend from claim 13, and so include all of the subject matter included in claim 13, and more. Claims 21-22 depend from

claim 19, and so include all of the subject matter included in claim 19, and more. Claim 24 depends from claim 23, and so includes all of the subject matter included in claim 23, and more. Claims 28-31, 33, 36, and 39-44 depend from claim 27, and so include all of the subject matter recited in claim 27, and more. Claims 47-50, 52-53, and 55-56 depend from claim 46, and so include all of the subject matter included in claim 46, and more.

For at least the reasons stated above with respect to claims 1, 13, 19, 23, 27, and 46, the proposed combination of Collins et al. and Sakakibara et al. fails to teach or suggest all of the subject matter included in claims 3, 5, 7-10, 12, 14-16, 18, 20-22, 24, 28-31, 33, 36, 39-45, 47-50, 52-53, and 55-56. Because the proposed combination of Collins et al. and Sakakibara et al. fails to teach or suggest all of the subject matter in claims 3, 5, 7-10, 12, 14-16, 18, 20-22, 24, 28-31, 33, 36, 39-45, 47-50, 52-53, and 55-56, these claims are not obvious, and are patentable, over the proposed combination of Collins et al. and Sakakibara et al.

For at least the reasons stated above, Applicants respectfully request reconsideration and withdrawal of the rejection, and allowance of claims 1, 3, 5, 7, 8-10, 12-16, 18-24, 27-31, 33, 36, 39-50, 52, 53, and 55-56.

Claims 2, 4, 6, 11,12, 15, 17, 25, 32, 35, 50, 51, 54, and 57-61.

Claims 2, 4, 15, 35, 12, and 54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Collins et al. and Sakakibara et al. (U.S. 4,681,712) in view of Mitchell (U.S. 6,426,459). Applicants do not admit that Mitchell is prior art and reserve the right, as provided for under 37 C.F.R. 1.131, to "swear behind" Mitchell. However, it is unnecessary to swear behind Mitchell at this time because for at least the reasons stated below, claims 2, 4, 15, 35, 12, and 54 are not obvious in view of the proposed combination of Collins et al., Sakakibara et al., and Mitchell.

Claims 11, 50, and 57-61 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Collins et al. and Sakakibara et al. (U.S. 4,681,712) as applied to claims 1, 13, 19, 23, 27, and 46 above, and further in view of Applicants' Admitted Prior Art; AAPA hereafter.

Claims 6, 17, 25, 32, and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Collins et al. and Sakakibara et al. (U.S. 4,681,712) in view of Clement et al. (U.S. 6,809,254).

Applicants respectfully traverse each of the rejections of claims 2, 4, 15, 35, 12, and 54, of claims 11, 50, and 57-61, of claims 6, 17, 25, 32, and 51.

The Final Office Action fails to provide a proper basis for forming the proposed combinations of documents as used in stating a rejection of claims 2, 4, 6, 11, 12, 15, 17, 25, 32, 35, 50, 51, 54, and 57-61.

Each of the proposed combinations of documents used in stating a rejection of claims 2, 4, 6, 11, 12, 17, 25, 32, 35, 50, 51, 54, and 57-61 relies on the proposed combination of Collins et al. with Sakakibara et al. For at least the reasons stated above, the Final Office Action fails to provide a proper basis for forming the proposed combination of Collins et al. and Sakakibara et al. in stating a rejection of claims 1, 3, 5, 7, 8-10, 12-16, 18-24, 27-31, 33, 36, 39-50, 52, 53, and 55-56. Because the Final Office Action provides no additonal basis for forming the proposed combination of Collins et al. and Sakakibara et al. in stating the rejections for claims 2, 4, 6, 11, 12, 15, 17, 25, 32, 35, 50, 51, 54, and 57-61, the Final Office Action also fails to meet the requirements for forming the propose combination used in stating the rejections of claims 2, 4, 6, 11, 12, 15, 17, 25, 32, 35, 50, 51, 54, and 57-61.

For at least the reasons stated above, the Final Office Action fails to meet the burden for establishing a *prima facie* case of obviousness with respect to the rejection of claims 2, 4, 6, 11,12, 15, 17, 25, 32, 35, 50, 51, 54, and 57-61.

Claims 2, 4, 6, 11, 12, 15, 17, 25, 32, 35, 50, 51, 54, and 57-61 are not obvious in view of the proposed combination of documents used in stating the rejections of these claims because the proposed combinations fail to teach or suggest all of the subject matter included in the claims toward which each of the proposed combinations of documents are directed.

Claims 2, 4, 6, 11, 12, 15, 17, 25, 32, 35, 50, 51, 54, and 57-61 depend from one of independent claims 1, 13, 19, 23, 27, and 46. Thus, claims 2, 4, 6, 11, 12, 15, 17, 25, 32, 35, 50, 51, 54, and 57-61 includes all of the subject matter included in the independent claim from which they depend, and more.

Applicants believe they have established that the proposed combination of Collins et al. and Sakakibara et al. fails to teach or suggest all of the claimed subject matter included in independent claims 1, 13, 19, 23, 27, and 46. In addition, the Final Office Action fails to point out in any of the additional documents used in stating the rejections for claims 2, 4, 6, 11, 12, 15,

17, 25, 32, 35, 50, 51, 54, and 57-61 a teaching or suggestion of the subjected matter included in claims 2, 4, 6, 11, 12, 15, 17, 25, 32, 35, 50, 51, 54, and 57-61 and missing from the proposed combination of Collins et al. and Sakakibara et al. For at least these reasons, the proposed combinations of documents used in stating the rejections of claims 2, 4, 6, 11, 12, 15, 17, 25, 32, 35, 50, 51, 54, and 57-61 fail to teach or suggest all of the claimed subject matter included in the claims rejected under each of these proposed combinations.

For at least the reasons stated above, Applicants respectfully request reconsideration and withdrawal of the rejections, and allowance of claims 2, 4, 6, 11, 12, 15, 17, 25, 32, 35, 50, 51, 54, and 57-61.

Claim 26.

Claim 26 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Collins et al., as modified, in view of Pierce (U.S. 5,431,974). Applicants respectfully traverse the rejection of claim 26.

As noted in Applicants previous response,[6] Applicants' representatives are unclear as to what is the basis for the "as modified" version of Collins et al. used in forming the rejection of claim 26 on page 7 of the Final Office Action. In addition, claim 26 depends from claim 23, and thus includes all of the elements recited in claim 23. The Final Office Action, for example on page 4, rejected claim 23 based on the proposed *combination* of Collins et al. and Sakakibara et al., but fails to include the Sakakibara et al. reference in the rejection of claim 26.

In view of this, Applicants respectfully submit that for at least the reasons stated above with respect to claim 23, the proposed combination of Collins et al. and Pierce fails to teach or suggest each of the elements included in claim 26. As noted above, claim 26 depends from claim 23, and so includes all of the elements recited in claim 23. Applicants believe they have established that Collins et al. fails to teach or suggest each of the elements included in claim 23, and so fails to teach or suggest each of the elements included in claim 26.

Applicants' representatives fail to find in, and the Final Office Action fails to point out in Pierce, a teaching or suggestion of the subject matter included in claim 26 and missing from

[6] *See* pages 17-18 of Applicants' "Amendment and Response Under 37 CFR § 1.111" mailed May 24, 2006 in reply to the Office Action mailed February 24, 2006 in this application.

Collins et al. Thus, the proposed combination of Collins et al. and Pierce fails to teach or suggest all of the subject matter included in claim 26.

For at least the reasons stated above, Applicants respectfully request reconsideration and withdrawal of the rejection, and reconsideration and allowance of claim 26.

Conclusion

Applicants respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 612-371-2132 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexendria, VA 22313-1450 on this 23rd day of October 2006.

Chris Hammond

Name

Chi Hammond

Signature